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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,227	12/27/2000	David S. Luskin	122899-01	5222

28990 7590 11/21/2003
COUDERT BROTHERS
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1114 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER

CHIU, RALEIGH W

ART UNIT	PAPER NUMBER
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3711

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DATE MAILED: 11/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/749,227

Applicant(s)

LUSKIN ET AL.

Examiner

Raleigh Chiu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,9 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,9 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the originally filed specification has not mention of strings in a non-distorted shape. Although applicant alleges on page 10 of their Remarks that "the frame and strings are in a non-distorted shape" are supported in the specification, it is not clear where such support lies. While the specification refers to a goal of obtaining a distortion-free frame, there does not appear to be a recitation of strings in a non-distorted shape.

Applicants argue on page 6 of their Remarks that the "Abstract clearly states: 'a double diagonal stringing pattern such that the original shape of the racket **frame is not distorted**'" (emphasis included) and notes that paragraphs [0013] and [0014] provide similar support. However, it is noted that the basis of the objection to the specification and the

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rejection of claims 1-6 and 15 in the previous Office action (Paper Number 11), lies in the fact that there is no description in the originally filed specification of **strings** in a non-distorted shape.

Claim Rejections - 35 USC § 112

3. Claims 1-6 and 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claims 1-6 and 15, as set forth above, there is no description in the originally filed specification of strings being in a non-distorted shape.

4. Claims 1-6 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-6 and 15, the meaning of "strings in a non-distorted shape" is unclear. When strings are tensioned, the elongation of the strings can be considered to be string distortion.

Claim Rejections - 35 USC § 103

5. Claims 1-6, 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reedhead as applied in the previous Office action in view of the stringing instructions of the MacGregor Bergelin LongString racquet found in The Stringer's Digest (MacGregor).

Regarding claims 1-3 and 15, as set forth in the previous Office action, for a sufficiently low tension, both the Reedhead frame and strings would be in a non-distorted shape.

Although Reedhead does not explicitly show how his racquet is strung, MacGregor discloses a similar adjustable-tension racquet to Reedhead where the ends of the diagonally-oriented strings are joined to a connector member. MacGregor further explains that it is old and well-known in the tennis racquet art to initially string such racquets slack, attach the various strings ends to a tension block and then increase the string tension to the desired level by turning a tension key at the racquet butt end. See MacGregor, first paragraph. Slack string is clearly non-distorted and would not distort the racquet frame.

Therefore, to the extent that one of ordinary skill would be uncertain as to how to string the Reedhead racquet, it would have been obvious to one of ordinary skill in the art to string

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it in the manner shown by MacGregor who provides explicit directions for stringing that type of racquet.

Regarding claim 4, some prior art racquets are well-known to have circular frames.

Regarding claims 5, 6 and 9, it is well-known in the tennis art that the string density of a racquet affects the power generated by the racquet. Specifically, a racquet with lower string density will generally create more power. As such, it would have been obvious to one of ordinary skill in the art to vary the spacing between parallel strings, i.e., the string pattern density, of the Reedhead racquet for the desired power.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raleigh Chiu whose telephone number is (703) 308-2247. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Vidovich, can be reached on (703) 308-1513.

The fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

A handwritten signature in black ink, appearing to read 'Raleigh W. Chiu', with a stylized, flowing script.

Raleigh W. Chiu
Primary Examiner
Technology Center 3700

RWC:dei:feif
13 November 2003